

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

SAHI COSMETICS L.L.C.,

Plaintiff,

v.

REA.DEEMING BEAUTY, INC.
D/B/A BEAUTYBLENDER,

Defendant.

Case No. 2:21-cv-10108-LJM-CI

Assigned to Hon. Laurie J. Michelson
Magistrate Judge Curtis Ivy, Jr.

**REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF
DEFENDANT'S MOTION TO
DISMISS**

REQUEST FOR JUDICIAL NOTICE

Pursuant to Federal Rule of Evidence 201(b) and (d), Defendant Rea.Deeming Beauty, Inc. d/b/a Beautyblender (“Defendant”), respectfully requests this Court to take judicial notice of the following document:

A true and correct copy of the Office Action (Refusal to Register) issued by the United States Patent and Trademark Office on or about December 11, 2020 refusing to register Sahi’s purported trade dress, which is attached to the Declaration of Joshua M. Geller as **Exhibit 4**.

DEFENDANT'S REQUEST FOR JUDICIAL NOTICE

SHOULD BE GRANTED.

Federal Rules of Evidence 201(b) provides that facts are subject to judicial notice when they are “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Federal Rule of Evidence 201(c)(2) states that “[a] court shall take judicial notice if requested by a party and supplied with the necessary information.”

The Court may take judicial notice of the USPTO Office Action (refusal to register), which was issued in response to Sahi’s September 10, 2020 federal trademark application seeking protection for an “iridescent pearl multicolor hue with a blue to pink shift” as a feature of Sahi’s claimed mark. *Music Makers Holdings, LLC v. Sarro*, No. RWT 09CV1836, 2010 WL 2807805, at *2 (D. Md. July 15, 2010) (“The Court may take judicial notice of matters of public record from sources—such as the PTO—whose accuracy cannot be reasonably questioned.”); *Oatly AB v. D’s Nats. LLC*, No. 1:17-CV-840, 2018 WL 3496386, at *6 (S.D. Ohio July 20, 2018) (The Court “can take judicial notice of the records of the USPTO showing that [] trademark applications . . . have been preliminarily refused.”).

Accordingly, Defendant respectfully requests that the Court take judicial notice of Exhibit 4 to the Declaration of Joshua M. Geller, which is being filed concurrently herewith in support of Defendant's Motion to Dismiss.

Dated: April 19, 2021
Los Angeles, California.

Respectfully submitted,
GREENBERG GLUSKER FIELDS
CLAMAN & MACHTINGER LLP

By: /s/ Aaron J. Moss

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